

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Hon. Richard Alan Enslin

v.

Case No. 1:05-mc-00044

KENNETH HOOGERHEIDE,

Defendant.

REPORT AND RECOMMENDATION

This matter is before the Court on an Order to Show Cause (Dkt. 4) entered in response to a Petition to Enforce Internal Revenue Service Summons (Dkt. 1). The matter was set for a show cause hearing on May 9, 2005, at 11:00 a.m. Respondent Kenneth Hoogerheide was ordered to submit any objections or defenses he had to the summons in writing, which he did not do. Nor did he appear at the May 9, 2005, hearing or contact the Court or the United States Attorney's Office regarding the hearing. At the May 9, 2005 hearing, Internal Revenue Service Agent Elizabeth Robbins gave sworn testimony as to the facts stated in her declaration attached as Exhibit A to the government's Petition. For these reasons, pursuant to 28 U.S.C. § 636(b)(1)(B), allowing magistrate judges to submit proposed findings of fact and recommendations for disposition, the undersigned hereby recommends that Kenneth Hoogerheide be ordered to respond to the Internal Revenue Service summons dated August 13, 2002, and produce the documents listed in the summons, except

those already in the possession of the IRS as outlined in Exhibit C-1 attached to the government's Supplement to Petition to Enforce Internal Revenue Service Summons (Dkt. 7).

Respectfully submitted,

Date: May 23, 2005

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).